

WAYS AND MEANS

The 22nd May, 1969

No. 2238-3WM-69/13715.—In exercise of the powers conferred by Article 283 (2) of the constitution of India and all other powers enabling him in this behalf the Governor of Haryana is pleased to order that during the year 1969-70 the rates of interest at which the Haryana Government will grant loans out of the State Loans and Advances Account under the State Aid to Industries Act shall, unless otherwise specified in any particular case, be as under :—

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| (i) Loans upto Rs. 25,000 | .. 3 per cent per annum |
| (ii) Loans above Rs. 25,000 | .. 7 per cent per annum |

The 29th May, 1969

No. FD-DOL/HR/69/8005.—The Governor of Haryana is pleased to make the following rules further to amend the rules for Scheme for the conduct of Haryana State Lotteries published,—*vide* Notification No. FD/DOL/2055/68/ST (1-3), dated 4th September, 1968 as subsequently amended,—*vide* Notification No. DOL/HR/SL/3996, dated 26th March, 1969 as follows namely :—

- (i) These rules may be called the Rules for Scheme for the conduct of Haryana State Lotteries (Second Amendment), 1969.
- (ii) For Rule 13 of the Rules for the conduct of Scheme of Haryana State Lotteries the following shall be substituted namely :—

“The result of every draw will be published in the leading Newspapers in the country and also notified in the Haryana State Gazette. The holders of the Prize winning tickets except first, second and third, shall send by registered post a simple advance receipt for the amount of the prize, to the Director, Haryana State Lotteries along with the prize winning ticket, after affixing their signatures on the reverse of the ticket as also their full address. The holders of the prize winning tickets of first, Second and third tickets shall produce their tickets in person to the Director, Haryana State Lotteries, Chandigarh after affixing their signatures on the reverse of the tickets as also their full address. The prize for amounts upto Rs. 100/- shall be remitted to the winners by M. O. and prizes for the amounts exceeding Rs. 100/- shall be paid by Bank draft. Foreign prize winning ticket holders will be paid in the Indian currency. All prize winning tickets shall be surrendered by the holders thereof within 30 days of the publication of the result in the State Gazette. The prizes not claimed within this period shall lapse to Government. The Director, Haryana State Lotteries may, however, extend the period upto 3 months where satisfied that the claim could not be preferred by the holder due to circumstances beyond his control.

M. L. BATRA,

Commissioner, Planning and Finance, and Secy.

LABOUR DEPARTMENT

The 20th May, 1969

No. 2750-A.S.O.-II-Lab-69/12120.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of Messers Gedore Tools (India) Private Ltd., Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD.

Reference No. 24 of 1969

*Between*SHRI INDRAJ WORKMAN AND THE MANAGEMENT OF M/S GADORE TOOLS
(INDIA) PRIVATE LTD; FRIDABAD.*Present :—*

Memo for the workman.

Shri C. P. Chaudhary, for the management.

AWARD

Shri Indraj was in the service of M/S Gedore tools (India) Private Ltd; Faridabad. His service were terminated and this gave rise to an industrial disoute. The Governor of Haryana in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/FD/54K/8195, dated 19th March, 1969.

Whether the termination of services of Shri Indraj was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties. No body appeared on behalf of the workman. Shri Chaudhary appeared on behalf of the management and stated that the workman Shri Indraj was not interested in persuing his claim for reinstatement and that he had written a letter to this effect to the Conciliation Officer. The original letter written by the workman has been produced on the file.

Since the workman has not appeared and has not led any evidence in support of his allegation, it cannot be held that the termination of his services was unjustified. He is, therefore, not entitled to any relief. I give my award accordingly. No order as to cost.

The 6th May, 1969

P. N. THUKRAL,
Presiding Officer, Labour Court,
Faridabad.

No. 2113, dated 6th May, 1969

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

The 6th May, 1969.

P. N. THUKRAL,
Presiding Officer, Labour Court,
Faridabad.

No. 2755-A.S.O.II-Lab-69/12123.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of Messrs Indian Lands Berg Implements Corporation, Ltd., Faridabad :—

BEFORE SHRI P.N. THUKRAL, PRESIDING OFFICER, LABOUR COURT, FARIDABAD

Reference No. 6 of 1968

between

SHRI RAM JAS, WORKMAN AND THE MANAGEMENT OF MESSRS INDIAN LANDS BERG IMPLEMENTS CORPORATION, LTD., FARIDABAD

Present—

Shri Ashok Kumar, for the workman.

Shri R.C. Sharma, for the management.

AWARD

Shri Ram Jas was in the service of Messrs Indian Lands Berg Implements Corporation, Ltd., Faridabad. His services stood terminated and this gave rise to an industrial dispute. The President of India in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Court for adjudication,—*vide* Government Gazette Notification No. ID/FD/175C/1598, dated 17th January, 1968 :—

Whether the termination of service of Shri Ram Jas was justified and in order ? If not, to what relief is he entitled ?

On receipt of the reference usual notices were issued to the parties in response to which a statement of claim was filed on behalf of the workman and the management filed their written statement. A number of preliminary objections were raised on behalf of the management. On merits the plea of the management is that the workman was absent without leave and so his name was struck off from the rolls in accordance with the provisions of the Standing Orders while the case of the workman is that he made an application for leave order to perform the marriage of his daughter. In his village he fell ill and he submitted a medical certificate in support of his illness. Under these circumstances it could not be said that he was absent from duty without leave. The pleadings of the parties gave rise to the following issues:—

- (1) Whether the reference is bad for the reasons mentioned in preliminary objection ?
- (2) Whether the claimant applied for leave from 8th May, 1967 to 8th June, 1967 one week before and proceeded on leave under the assumption that his leave has been sanctioned ?
- (3) If so, whether the action of the worker for proceeding on leave in this manner was justified ?
- (4) Whether the claimant fell ill from 9th June, 1967 to 24th June, 1967 and was unable to resume his duties till 24th June, 1967 and submitted a medical certificate to the management in this regard ?
- (5) If the above issues are found in favour of the claimant, whether the termination of the services of Shri Ram Jas was justified and in order ? If not, to what relief he is entitled ?

The parties have produced evidence in support of their respective contention and I have heard their learned representatives. My findings are as under:—

Issue No. 1.—The reference is said to be bad on the ground that in the order of reference the respondent company has been described as Indian Lands Implement nt Corporation Ltd., Faridabad while its name was change

to Lands Berg India (P) Ltd., Faridabad with effect from 1st July, 1967. Further the reference is said to be vague on the ground that it does not indicate in what manner the services of the aggrieved workman were terminated. It is also pleaded that there was no industrial dispute between the management and their workmen and there was only an individual dispute. The management filed an additional written statement on 20th April, 1968 in which they took an additional objection that this Court was not properly constituted and the present Presiding Officer was also not validly appointed.

There is no force in any of the preliminary objections raised on behalf of the management. A mere misdescription of the name of the respondent company would not invalidate the reference. An individual dispute is also deemed to be an industrial dispute by virtue of Section 2A of the Industrial Disputes Act which lay down that an individual workman if aggrieved by reason of the termination of his services can raise an industrial dispute even if no other workman or union of workmen espouse his cause. It is also not necessary that in the order of reference itself it should be indicated in what manner the services have been terminated. So the order of reference can not be challenged on any of these grounds.

There is also no force in the objection that this Court is not properly constituted or that the appointment of the present Presiding Officer is not valid. This Court was constituted by the notification No. 11495/12474-C. Lab-57/11345, dated 7th February, 1958 and this notification continues to be in force. On appointment under Rule 5 of the Industrial Disputes (Punjab) Rules, 1958, the appointment of the present Presiding Officer was also duly notified,—vide notification No. 7103-3-Lab-67/25650, dated 24th August, 1967. The headquarters of this Court were shifted from Rohtak to Faridabad,—vide notification No. 5414-3-Lab-68/15754, dated 20th June, 1968 published in the extraordinary gazette, dated 21st June, 1968. The submission that by reason of this notification a new Labour Court was constituted at Faridabad and the Labour Court at Rohtak stood abolished also is not correct. By this notification only the headquarters of the existing Court were shifted. The jurisdiction of the Presiding Officer of the Labour Court was throughout the State of Haryana and it continued to be so even after the headquarters were shifted from Rohtak to Faridabad and therefore no fresh notification was necessary. In my opinion, therefore there is no force in any of the preliminary objections raised on behalf of the management. I find this issue in favour of the workman.

Issues Nos. 2 and 3.—These issues are more or less connected and can be conveniently discussed together. The case of the management is that the claimant used to work as a mali and he absented himself from duty with effect from 8th May, 1967 without giving any application for leave and the management waited for him for a sufficiently long period and ultimately struck off his name. It is alleged a medical certificate, dated 9th June, 1967 was received from the claimant under registered cover on 13th June, 1967 in which the Doctor recommended sick leave for 14 days with effect from 9th June, 1967 but as the name of the claimant had already been struck off from the pay rolls, he was duly informed of this fact. The case of the claimant on the other hand is that he had to marry his daughter and was in need of leave and so he applied for one month's leave and submitted his application for leave through Pandit Shanker Dutt under whom he was working as a helper. It is alleged that Pandit Shanker Dutt advised him to give his leave application to the time keeper and so he gave the necessary application to him on 4th May, 1967 before proceeding on leave and was verbally informed that his leave application would be sanctioned in due course and he could go and so he left. The claimant states that he fell ill during the period of his leave while he was still in his village and so he asked for extension of leave for 15 days and his application was duly supported by a medical certificate which was sent under registered cover and after his recovery he presented himself for duty with a fitness certificate.

The workman has appeared as a witness in support of his version and he has been cross-examined at length. He has stood the test of cross-examination well. His version is also corroborated by the evidence of Shri Suraj Parkash Kapoor, W.W. 2 who was in those days working as a Time Keeper in the respondent concern. In answer to the Court question Shri Kapoor stated that it was a normal practice in those days that all leave applications were given to him and in due course they were forwarded to Shri Jain the Personal Assistant for formal orders. Shri Suraj Parkash has explained that the practice of giving the leave applications to the Time Keeper was adopted because the applications given to the Incharge were not received for a number of days and the workman was wrongly marked absent.

In rebuttal the management have produced their office Superintendent Shri Roshan Lal Chopra, M.W. 1. He has only referred to the previous leave application, Ex. M/1 which was given by the claimant for 15th January, 1967 and it was duly sanctioned. The witness has stated that the time office is not competent to receive leave applications or to sanction them. He further says that the time keeper Shri Suraj Parkash Kapoor never informed him that any application for leave had been received from the claimant and so he was marked absent and his services were terminated,—vide letter Ex. M/2. He states that the medical certificate, Ex. M/3 was received in the envelope Ex. M/4 on 13th June, 1967 and the claimant did not produce any fitness certificate. The management have not produced any other evidence.

I have carefully considered the evidence produced by the parties and in my opinion the version of the workman appears to be correct that he had gone to his village after giving an application for leave and he was verbally assured that he could go. This version is strongly corroborated by the circumstances of the case. There is absolutely no reason to disbelieve the evidence of Shri Suraj Parkash Kapoor, W.W. 2, ex-Time Keeper of the respondent concern who has stated that it was normal practice in those days that all leave applications were given to him and that were in due course forwarded to Shri Jain the Personal Assistant. Shri Jain has not been produced in evidence to rebut the statement. Shri Roshan Lal Chopra, M.W. 1, Office Superintendent of the respondent concern has simply stated that either he or Shri Jain were competent to sanction the leave and the time office was not competent to receive or sanction the same. Shri Kapoor has not stated that he had any authority to sanction the leave. He has simply referred to the then existing practice that the leave applications were routed through him so that a workman who proceeds on leave is not wrongly marked absent. It is not the case of the management that the workmen are given any receipt for the leave applications submitted by them. In case, therefore, any application for leave is misplaced and the workman is wrongly marked absent it would not be correct to say that his absence was unauthorised. The claimant has stated on oath that he had to marry his daughter and was in need of leave and so he applied for one month leave and submitted his application for leave to his Incharge

Parlit Shanker Dutt. Even Shri Shanker Dutt has not been produced to contradict the statement of the claimant. It has also not been suggested to the workman during his cross-examination that his statement that he had to marry his daughter was not correct. After all there must have been some reason as to why without any rhyme or reason the claimant absented himself with effect from 8th May, 1967. It does not appear that the claimant is a very clever person and he adopted the method of submitting a medical certificate under registered cover for the purpose of re-gaining his service which he voluntarily abandoned. On the other hand that the claimant appears to be a simpleton. He admits in his cross-examination he did not even submit any application for leave along with the medical certificate and that he simply sent the medical certificate. This clearly shows that the claimant was not assisted by any clever person who advised him that he could re-gain his service if he applied for sick leave supported by a medical certificate. It appears that the claimant bona fide thought that he was on sanctioned leave and his leave would automatically been extended because the Doctor had recommended him rest for 14 days with effect from 9th June, 1967. The fact that the claimant submitted a medical certificate from his village is a very strong circumstance which corroborates his version that he had gone to his village to perform the marriage of his daughter. If the claimant had remained in Faridabad and after whiling away his time for an about a month or so had applied for extension of leave then it could have been argued that he might have been advised by some labour leader to adopt this course in order to get back into service which previously he did not consider it worth his while.

It also does not appear that the management are maintaining their record carefully and the possibility that the leave application submitted by the claimant might have been misplaced cannot be ruled out. In the written statement it is pleaded that the claimant used to work as a Mali. In order to prove that this position was not correct, the workman has produced his leave book marked Ex. W/2 which was given to him by the management and it is mentioned therein that the claimant was working as a helper in the workshop. Thus we find that when submitting the written statement the management were not even aware as to what was the correct designation of the claimant. Illiterate workmen of the type of the claimant are not expected to be well versed with rules and if the workman, as stated by him, was verbally assured that he could proceed on leave as his daughter was to be married and he went to his village in good faith believing that his leave would be sanctioned in due course, it cannot be said that he was in fault because he left without obtaining written orders that his leave had been sanctioned. I am, therefore, clearly of the opinion that the claimant left after submitting leave application from 8th May, 1967 to 8th June, 1967 under the assumption that his leave application would be sanctioned and taking into consideration all the circumstances of the case it cannot be said that he was not justified in proceeding on leave in this manner. The management have not produced their certified standing orders nor to have they referred to any rule under which it was incumbent on the workman to have obtained orders in writing before proceeding on leave. I, therefore, find both these issues in favour of the workman.

Issue No. 4.—This issue is not very material for the purpose of deciding this case because the version of the management is that the absence of the workman was unauthorised from the very beginning and his name was struck off by reason of this unauthorised absence. As a matter of fact the management did not at all consider the medical certificate submitted by the workman and when it was received the workman was simply informed that his name had already been struck off by reason of his unauthorised absence and, therefore, his medical certificate could not be accepted. There is no reason to doubt the sworn testimony of the claimant that while on leave in his village he fell ill and so he asked for extension of leave for 15 days. In his cross-examination he stated that he had loose motions and also had fever and so he also went to the Hospital. Even in the written statement the management had not challenged the correctness of the medical certificate submitted by the workman, it is simply stated that as the name of the workman had already been struck off, therefore, the management was not bound to sanction any leave. In my opinion, therefore, it is satisfactorily established that the claimant was ill from 9th June, 1967, to 24th June, 1967, and was, therefore, unable to resume his duty till 24th Jun 1967.

Issue No. 5.—In view of my findings above, it must be held that the absence of the workman from 8th May, 1967 to 8th June 1967 was not unjustified when the management received the medical certificate under registered cover from the workman it should have occurred to them that the workman had not perhaps abandoned the service and that he might be labouring under some misunderstanding. Absence from duty without leave is normally a misconduct and, therefore, a duty was cast upon the management to give a notice to the workman calling upon him to show cause as to why he was absent from duty without applying leave and it would have been then upon to the workman to prove that he was not absent without leave but had in fact given an application for leave as he had to marry his daughter and he was verbally assured by his Incharge that he could proceed and his leave would be sanctioned in due course. The management could then satisfy themselves as to whether the version of the workman was correct. Nothing of the sort was done by the management and I am accordingly of the opinion that the action of the management in striking off the name of the workman from the rolls without enquiry as to whether he had in fact abandoned the service was not justified and the workman Shri Ram Jas is entitled to be reinstated with full back wages and continuity of service. No order as to costs.

P. N. THUKRAL,

Persiding Officer
Labour Court, Faridabad.

Dated 2nd May, 1969.

No. 2105, dated 4th May, 1969

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,

Presiding Officer,
Labour Court, Faridabad.